

**NC COMMISSION FOR MENTAL HEALTH,  
DEVELOPMENTAL DISABILITIES AND  
SUBSTANCE ABUSE SERVICES**

Clarion Hotel  
320 Hillsborough Street  
Raleigh, NC

May 15, 2008

**Attending:**

**Commission Members:** Pender McElroy, Dr. Diana J. Antonacci, Lois T. Batton, Richard Brunstetter, Laura C. Coker, Dorothy Rose Crawford, Sandra C. DuPuy, Pearl Finch, Mazie T. Fleetwood, Thomas Fleetwood, Ann Forbes, Paul Gulley, Dr. Ranota T. Hall, J. Michael Hennike, Ellen Holliman, George Jones, Martha Macon, Martha Martinat, Floyd McCullough, Connie Mele, Emily Moore, Jerry Ratley, Dr. Anna M. Scheyett, Dr. William Sims, Dr. Marvin Swartz

**Commission Members Excused:** Pamela Poteat

**Ex-Officio Committee Members:** Peggy Balak, Martha Brock, Sally Cameron, Robin Huffman, Karen McLeod, Larry Pittman, Ellen Russell, Mark Sullivan

**Division Staff:** Michael Lancaster, M.D., Leza Wainwright, Steven Hairston, Denise Baker, Marta T. Hester, Andrea Borden, Tonya Goode, Jason Reynolds, Bill Bronson, Lynn Jones, Jim Jarrard, Lena Klumper, Bonnie Morell, Stuart Berde, Mark O'Donnell, Spencer Clark, Tracy Ginn

**Others:** Paula Cox Fishman, Erin McLaughlin, David Swann, Ann Rodriguez, Lisa P. Schrade, Lisa D. Mares, Charles Franklin, Joe Donovan, John L. Crawford, Jesse Nour, Louise G. Fisher

**Handouts:**

- Reference Material for the Adoption of Curriculum for Alcohol and Drug Education Traffic School (ADETS)
- Comment Received from Mark Sullivan regarding rule 10A NCAC 28C .0201 – State Facility Environment

**Mailed Out Packet:**

- May 15, 2008 Commission Agenda
- Draft February 21, 2008 Commission Meeting Minutes
- Draft April 9, 2008 Rules Committee Minutes
- Draft April 10, 2008 Advisory Committee Minutes
- May 15, 2008 Commission Meeting Information
  - Proposed Adoption of 10A NCAC 27I .0400 – Secretary Approval of LME Service Delivery
  - Proposed Adoption of 10A NCAC 28F .0214 – LME Utilization of State Hospitals
  - Proposed Adoption of 10A NCAC 27G .7100 – Target Population
  - Proposed Adoption of 10A NCAC 27I .0300 – Local Business Plan

- Proposed Adoption of 10A NCAC 27G .0406 – Letter of Support Required for Licensure of Residential Facilities
- Proposed Adoption of 10A NCAC 27G .0211 – Provider Accreditation
- Proposed Adoption of 10A NCAC 26I .0102 & .0201 – LME Accreditation
- Proposed Adoption of 10A NCAC 27G .7000 – LME Response to Complaints
- Proposed Adoption of 10A NCAC 29G .7004 – Appeals Regarding Utilization Review Decisions for Non-Medicaid Services

### **Call to Order**

Pender McElroy, Commission Chairman, called the meeting to order at 9:30 am and delivered the Invocation.

### **Introduction and Welcome**

Following introductions by the Commission members, staff from the NC Division of Mental Health, Developmental Disabilities and Substance Abuse Services (DMH/DD/SAS) and the public, Chairman McElroy welcomed new members and read the names of the excused absences.

### **Ethics Reminder**

Mr. McElroy also informed new members of the mandatory ethics training requirement and issued the ethics reminder.

### **Approval of Minutes**

*Upon motion, second, and unanimous vote, the Commission approved the minutes of the February 21, 2008 Commission meeting.*

### **Chairman's Report**

Mr. McElroy stated that the next ethics training session will be held on May 16, 2008 from 9:30am – 12:00pm at the NC Museum of History Auditorium. He also added that although no additional trainings have been scheduled at this time, they will be forthcoming. Mr. McElroy announced agenda changes: William Bronson, Manager, DMH Drug Control Unit, will provide an update on the Consumer Complaint that was considered at the February meeting; Mark O'Donnell will present rules in Dick Oliver's stead from the LME Performance Team; and Bonnie Morell, Team Leader, Best Practice and Community Innovations Team, will provide an update on rules concerning designation of facilities on behalf of Dr. Michael Lancaster. The Chairman also recognized all of the members whose time on the Commission will expire on June 30, 2008, and asked for a motion to express appreciation for their service and commitment. These members are listed as follows: Ann Forbes, Jerry Ratley, Emily Moore, Floyd McCullouch, George Jones, J. Michael Hennike, Pearl Finch, Lois Batton, and Pender McElroy. He noted that Jerry Ratley is eligible for reappointment.

*Upon motion, second, and unanimous vote, the Commission approved the motion to express appreciation of the Commission Members' service.*

In addition to thanking the Commission Members that have served with him over the years and expressing gratitude to those that are currently serving, Chairman McElroy also thanked the Division Staff, advocacy groups, the providers and the NC Council on Community Programs. He also thanked his wife, Kathy, for her support over the years.

Ms. Dorothy Crawford, Commission Member, expressed thanks and appreciation to Mr. McElroy for his leadership and unwavering commitment to advocacy. She also encouraged his continued

participation in advocacy activities. Floyd McCullouch, Chairman, Rules Committee, expressed appreciation and gratitude for Mr. McElroy's service. He noted that Mr. McElroy exemplifies leadership and is well respected by State and DMH leaders, Advocacy groups, and individuals whom he has encountered. Dr. Anna Scheyett, Co-Chair, Rules Committee, informed everyone in attendance of the farewell cards that were available to sign for the members whose term will end on June 30, 2008.

Chairman McElroy also mentioned that there was a request to change the August Commission Meeting from August 14, 2008 to August 21, 2008. A motion to change the Commission Meeting date was placed on the table for a vote.

***Upon motion, second, and unanimous vote, the Commission approved the new August Commission Meeting date of August 21, 2008.***

Mr. McElroy also presented the proposed 2009 Committee Meeting Schedule for adoption.

***Upon motion, second, and unanimous vote, the Commission approved the 2009 Commission Meeting Schedule and selected and confirmed the July 22 – July 23, 2009 dates for the month of July for the Rules and Advisory Committee Meetings.***

#### **Consumer Complaint**

William Bronson, Manager, Drug Control Unit, DMH/DD/SAS presented the report to the Commission on the response to the consumer complaint on behalf of Sonya Brown, Team leader, NC DMH/DD/SAS, Justice Systems Innovation Team. The Meth Lab Prevention Act requires that a Disposition Log of sales of pseudoephedrine products in the form of tablets and caplets be maintained which documents the following information: name and address of purchaser, product purchased, product grams, transaction date, and customer signature attesting to the validity of the information provided. A consumer complained that her identifying information was exposed to all who signed the Disposition Log after her. This is a follow up to that complaint. The following actions have been taken: a mail-out reminder (with the assistance of the Pharmacy Board) to all pharmacies throughout the state reminding them of the rules regarding the Disposition Log and directing them to the Commission website regarding training and the Meth Lab Prevention Act; direct communication made by both Sonya Brown and Mr. Bronson with the pharmacy manager for this facility and receipt of written assurance from the manager that the rules will be followed; and steps taken to follow up with the corporate headquarters resulting in a telephone discussion with the Vice President of Pharmacy Service and assurance that this particular pharmacy will be updated to having an electronic registration by the end of May. Mr. Bronson also indicated that all pharmacies under this particular chain will have electronic registration which alleviates the issue of personal identifiable information being viewed by other consumers. Finally, a letter will be sent to the consumer outlining the actions taken by the Commission.

Mr. Bronson received the following questions and comments from the Commission:

- Dr. Marvin Swartz, Commission Member, asked if there was a discussion in the past regarding whether this is a problem at other pharmacies statewide.
  - Mr. Bronson stated that most pharmacies are going to the electronic registration method which corrects and eliminates the problem. However, there is no formal process to check compliance with the rule.
- Mr. Floyd McCullouch, Commission Member, asked if a copy could be sent to all corporate headquarters of all major chains in North Carolina.

- Mr. Bronson stated that this has been done and perfect responses have been received from these chains. Some were reaffirming from 2006 and several that had not reported in 2006 were now reporting compliance with the legal requirements.

*Upon motion, second, and unanimous vote, the Commission approved the actions taken by Mr. Bronson.*

### **Director's Report**

Leza Wainwright, Co-Director, DMH/DD/SAS, began by expressing appreciation for the service and dedication provided by members of the Commission. She then delivered the Director's Report by beginning with a review of the Governor's Budget for Mental Health (Recommended Adjustments to the NC State Budget). Ms. Wainwright also mentioned that Dempsey Benton, the Secretary of the NC Department of Health and Human Services, will ask the NC General Assembly to make a proposal to place in statute benchmarks for the national accreditation of providers. She concluded by informing the Commission members of the recommendations that the Legislative Oversight Committee on Mental Health, Developmental Disabilities and Substance Abuse Services will make to the NC General Assembly, which included the following:

- Moving all Local Management Entities (LMEs) to single stream funding and providing technical assistance to the LMEs not meeting the standards necessary for single stream funding;
- Continuing funding for housing construction and rental assistance;
- Developing a tiered CAP-MR/DD Waiver program – the LOC is recommending four waivers; and
- Directing the NC Institute of Medicine to study consumers with developmental disabilities to include those leaving schools, those living at home with aging parents, and those leaving state developmental disability centers.
- Delegating utilization review functions for Medicaid services to the LMEs by July 1, 2009.

Ms. Wainwright noted that DHHS is not opposed to reintegrating utilization review functions to the LME but is concerned about the amount of time required for this to occur coupled with the consistent application of these functions by each LME. Ms. Wainwright had to leave for another appointment and advised the Commission that she would return in the afternoon to present an overview of the Mercer Report.

### **Advisory Committee Report**

Dr. Marvin Swartz, Chair, Advisory Committee, delivered the Advisory Committee Report. The Advisory Committee met and finalized the Workforce Development Initiative Report. There were minor changes between the last version and the current version because the Division wanted to make some additional changes between the version that was previewed and now. There was a change in the recommendation related to the establishment of a workforce development section and the Division thought that was more realistic to start with a request for a workforce development specialist. The report was also presented to the Joint Legislative Oversight Committee on MH/DD/SAS.

Steven Hairston, Chief, Operations Support Section, DMH/DD/SAS, stated that the proof of the report was received from the Department of Corrections and that the Division had to insert the cost statement. The final edition will be distributed to members of the Commission and then

distributed to the public that are on the distribution list by the end of the month. Following Mr. Hairston's comments, the Advisory Committee recommended that the report be approved.

***Upon motion, second, and unanimous vote, the Commission adopted the Workforce Development Initiative Report.***

Dr. Swartz also reported that the Advisory Committee has been discussing other issues that need to be addressed such as primary care, dental care, policy development and its process, Community Support Services, and hospital staffing levels. He added that the Committee did not discuss the involuntary commitment issue; continued review of that issue may be determined by the final decision regarding amendment of the involuntary commitment rule.

### **Rules Committee Report**

Dr. Scheyett, Co-Chair, Rules Committee delivered the Rules Committee Report by advising that all of the rules presented at the April 9, 2008 Rules Committee will be presented again today.

### **10A NCAC 26C .0100 – Update on Designation of Facilities for the Custody and Treatment of Involuntary Clients**

Bonnie Morell, Community Policy Management, Best Practice and Community Innovations Team Leader, NC DMH/DD/SAS, presented the update to the Commission. She noted that the goal is to limit the types of facilities which could apply to serve involuntary clients. Facilities providing social setting detoxification for substance abuse have been removed from the rule and the concerns about the health, safety and staffing issues are being addressed.

Ms. Morell pointed out the following changes in the rule:

- Rule 10A NCAC 26C .0101
  - Social setting detoxification for substance abuse has been removed
  - Paragraph “e” has been added which requires “facilities designated as facilities for the custody and treatment of involuntary clients shall have adequate staffing and provide appropriate supervision to ensure the protection of the individual and the general public”.
- Rule 10A NCAC 26C .0102 – the addition of (b)(3) which requires consideration of the staffing levels of the facility.
- Rule 10A NCAC 26C .0103 – incorporates the following additions:
  - (a)(5) – presence of a registered nurse twenty-four hours per day
  - (a)(6) – availability of a physician or eligible psychologist

Ms. Morell received and responded to the following questions and comments from the Commission:

- Ann Forbes, Commission member, asked if there was a copy of the rule available and what facilities are listed.
  - Ms. Morell apologized for not providing a copy and also stated that the current rule states that any hospital licensed under 131d or any 24 hour facility licensed under 122C can apply for designation for the custody and treatment of involuntary clients. The rule attempts to limit the types of facilities which could apply to the following: inpatient hospital, facility based crisis, non-hospital medical detox, and residential treatment or rehabilitation for individuals with substance abuse disorders.

- Ms. Scheyett stated that she received an email of the list of facilities with a couple of the facilities not listed.
  - Ms. Morell stated that the omissions sent via email to Ms. Scheyett were in error. This is the reason why it was not distributed to the entire Commission.
- Dr. Richard Brunstetter, Commission member, stated that this is an enabling rule to expand the capacity for the care of committed patients. He proceeded by asking several questions such as: what kind of changes it would make in state facilities, how many additional beds will be available in state hospitals and community hospitals, will this change come about primarily in the community or in the state hospital system and how this will fit into reform.
  - Ms. Morell stated that the Division decided to amend this rule primarily because the process that was in the rule for applying for designation required sending your application to the Regional Director. It has been eight (8) years since they have had Regional Directors; therefore, that needed to be corrected. Next, the Division looked at the fact that any 24 hour facility licensed under 122C could apply for designation. Ms. Morell noted that amendment of this rule is an attempt to narrow the list of facilities which could apply for this designation and noted that she does not anticipate a significant increase in the number of facilities applying.
- Sandra Dupuy, Commission Member, stated that if there is concern about best practices, there are best practice models for how these particular settings operate, and to introduce an involuntary committed person into those settings fundamentally changes what that setting is and if you do not have staff who are trained to deal with dual diagnosis issues it changes those settings. She expressed specific concern regarding the non-hospital medical detox and residential facilities. Therefore, she questioned why these two options would be included in this list.
- Laura Coker, Commission Member, stated that with the crisis stabilization unit, there is the assumption that people could go there and be stabilized in the mental health arena. Best Practice assumption is that you are working with people and their resilience capacity and trying to foster from the beginning the right kind of outcome that is based on their strengths, helping them get control of themselves, etc. She added that her concern is that usually when we have people who actually need commitment, it is because they are beyond the point of being able to get control of themselves easily and it changes the environment. She advised that there is a need to be real cautious in how this is approached unless you are talking about adding on separate units at every crisis stabilization place.
  - Ms. Morell mentioned that when these facilities are listed, it does not mean that each and every one of these kinds of facilities must or are automatically designated to take involuntary patients. The list is just a list of facilities that may apply but would not be designated unless they met all of the criteria for being appropriate in terms of health, safety and staffing.
- W. Denise Baker, Operations Support Section, Division Affairs Team Leader, NC DMH/DD/SAS, asked Ms. Morell the following question for clarification. Is it true that these facilities already have the capacity to apply to take involuntary committed clients? When Ms. Morell answered affirmatively, Ms. Baker noted that the rule doesn't appear to

be imposing additional requirements as these facilities already have the ability to do what this rule allows; rather, this is an attempt to limit the types of facilities which could apply for this designation. Otherwise, in accordance with the current rule, any facility licensed under 122C can apply to provide services to any involuntary committed client.

- Connie Mele, Commission Member, stated that Mecklenburg County does have a substance abuse social setting detox that takes involuntary committed individuals with substance abuse disorders. She questioned what facility would take these clients if Mecklenburg is no longer able to do that. Ms. Mele added that where these people are currently going should be examined as well as whether there are facilities that are serving them which will no longer be able to serve them. She further questioned how this situation will be addressed and where will these people be sent at that point.

Chairman McElroy requested that the Division send an updated version of 10A NCAC 26C .0100. to all members of the Commission for review during the Rule Committee meeting. If the Commission has further comments, they can be addressed at the upcoming Rules Committee Meeting. A consensus was taken and all members agreed with this action.

#### **Review of Curriculum for Alcohol and Drug Education Traffic School (ADETS) for Adoption**

Lynn Jones, Program Manager of DWI Services and D. Jason Reynolds, Program Consultant, Justice Systems Innovations, NC DMH/DD/SAS, presented the review of Curriculum for Alcohol and Drug Education Traffic School (ADETS). They advised that the new curriculum is an evidence based curriculum for the ADETS program and informed the Commission of its authority over the approval of the curriculum for ADETS in General Statute 122C-142.1. Ms. Jones described the curriculum as evidence-based and cited positive outcomes, a peer review component, and a well-documented protocol as the basis for recommending adoption of this curriculum.

Ms. Jones provided a sample of the program curriculum and disseminated the curriculum to be reviewed by the Commission members during the meeting. The Commission requested time to review the material and asked both Ms. Jones and Mr. Reynolds to return after lunch to respond to additional questions.

Ms. Jones and Mr. Reynolds received the following questions:

- Mr. McElroy asked how many hours comprise the program.
  - Ms. Jones advised that the program is 16 hours and noted that the Commission approved the increase in the number of hours from 10 to 16 in the past year.
- Mr. McElroy asked about the length of the program and the number of days involved.
  - Ms. Jones stated it has to be at least over a five (5) day period and that a lot of the agencies would do three (3) hours per session but at least five (5) days.
- Mr. McElroy asked what kind of certification is required of those persons conducting the training.
  - Ms. Jones stated that the law has been amended and as of January 2009, certification and/or licensure within the NC Substance Abuse Professional Practice Board are required to teach the course.
- Martha Martinat, Commission member, asked if there are any statistics on the recidivism rate.
  - Ms. Jones shared with the Commission that an initial outcome study for ADETS was completed and now the Division is looking at a two (2) year period prior to the person coming into the ADETS program. The recidivism rate is around 10% overall

and the recidivism rate for those 21 years of age and under is 14%, which is very high.

- Ms. Forbes proposed a question regarding the grade level of the written material that is available to the participants of the course.
  - Ms. Jones responded that the material is written at the sixth grade level.
- Dr. Scheyett stated that in the future, it would be very helpful to have both an outline of the curriculum and at least some reference or some way of seeing what the outcomes are so the Commission can see it linked to SAMHSA in order to have a more complete picture. She also raised a question regarding how that rule needs to be modified given this new curriculum.
  - Ms. Jones states no rules need to be changed in order for the Commission to approve the curriculum currently.
- Ms. Finch noted that she did not see anything in the manual about anger management.
  - Ms. Jones stated that the curriculum looks at the biological and psychosocial factors of anger management.
- Mr. McCullouch asked a question regarding the cost per book and the response was that the cost is estimated to be \$20.00 per student.
- Mr. McElroy asked a follow-up question regarding whether the cost would then be passed on to the student by the provider.
  - Ms. Jones stated that that would require a statute change. Meanwhile, the plan is to subsidize it with the DWI receipts that are received.

***Upon motion, second and unanimous vote, the Commission approved the curriculum for the Alcohol and Drug Education Traffic School (ADETS) program.***

Mr. McElroy recognized Sally Cameron, Ex-Officio member of the Rules Committee. Ms. Cameron gave directions to the Mental Health Association of North Carolina to everyone in attendance who wanted to attend the reception for the Pender McElroy, the Commission Chairman. The reception was given by the Mental Health Association of North Carolina.

#### **Update on the State Government Appropriations**

Leza Wainwright, Co-Director, DMH/DD/SAS, presented an update on state government appropriations by advising that it appears that mental health may be set aside as a protected category of funding. Ellen Russell, Ex-Officio Member of the Rules Committee, stated that those people in the developmental disabilities field are kind of stunned that while the dire needs of mental illness were somewhat addressed, both the Governor's budget and the LOC recommendations had absolutely zero service dollars for people with developmental disabilities. Ms. Wainwright stated that that was not correct, it is addressed in the crisis component and the tiered waivers recommendation.

#### **10A NCAC 27I .0400 – Proposed Adoption of LME Service Delivery**

Ms. Wainwright presented the proposed adoption of LME Service Delivery rules. Adoption of the proposed rule establishes in administrative code the process that DHHS will follow to approve LMEs to directly deliver services, in accordance with the requirements of G.S. 122C-141. This is a Secretary Rule and presented for information and comment. Therefore, no action is required.

Ms. Wainwright received the following questions and comments from the Commission Members regarding this rule:



- A Commission Member stated that in the past in Mecklenburg County, when these requests were submitted to continue to provide services, there was a requirement that the Consumer and Family Advisory Committee (CFAC) submit a letter of support and questioned whether that requirement could be extended throughout the state.
  - Ms. Wainwright asked the NC DMH/DD/SAS, Operations Support Section Staff if this would require a reposting. Denise Baker answered by stating that it would require a reposting if the Rules Review Commission felt that there was substantial change from the rule as published.

Mr. McElroy stated that the procedure that was outlined is the best that can be done today and that perhaps an amendment can be considered later. Ms. Wainwright concurred and noted that the rule could be further amended in the future should the need exist.

#### **10A NCAC 28F .0214 – Proposed Adoption of LME Utilization of State Hospitals**

Lena Klumper, State Operated Services, NC DMH/DD/SAS, presented this proposed rule for adoption. Adoption of the proposed rule establishes in administrative code the Hospital Utilization Plan as first identified in the State Mental Health Plan. The proposed rule is necessary to promote equitable and sustainable utilization of the State operated psychiatric hospitals. This is a Secretary Rule and presented for information and comment. Therefore, no action is required.

#### **10A NCAC 27G .7100 – Proposed Adoption of Target Population**

Spencer Clark, Assistant Section Chief, Community Policies Section, NC DMH/DD/SAS, presented this proposed rule for adoption. The proposed rule is necessary to define individuals who are given service priority. This is a Secretary Rule and presented for information and comment. Therefore, no action is required.

#### **10A NCAC 27I .0300 – Proposed Adoption of Local Business Plan**

Mark O'Donnell, LME System Performance, NC DMH/DD/SAS, LME System Performance Team, presented the rule on the proposed Adoption of Local Business Plan. House Bill 2077 included legislation which requires every area authority or county program to develop a LME business plan for the management and delivery of mental health, developmental disabilities, and substance abuse services. A LME business plan shall provide detailed information regarding how the area authority or county program will meet State standards, laws, and rules for ensuring quality mental health, developmental disabilities, and substance abuse services, including outcome measures for evaluating program effectiveness. This is a Secretary rule and presented for information and comment. Therefore, no action is required.

#### **10A NCAC 27G .0406 – Proposed Adoption of Letter of Support Required for Licensure of Residential Facilities**

Mark O'Donnell presented the proposed adoption of Letter of Support Required for Licensure of Residential Facilities. Session Law 2005-276, Section 10.40(a) (the Appropriations Act of 2005) requires an applicant for MH/DD/SA facility licensure to submit with the application to Division of Health Service Regulation (DHSR), a letter of support obtained from the LME in whose catchment area the facility is located. The proposed rule is necessary to ensure that residential treatment facility beds are available where needed, unnecessary costs to the State do not result from excess facilities that result in duplication, high vacancy rates, and underutilization, and that individuals who need care in residential treatment facilities may have access to quality care. Comments were received from the NC Council of Community Programs during the 60 day publication of this rule. This proposed adoption is presented to the Commission for final approval.

*Upon motion, second and unanimous vote, the Commission approved the adoption of 10A NCAC 27G .0406.*

**10A NCAC 27G .0211 – Proposed Adoption of Provider Accreditation**

Jim Jarrard, Team Leader, Accountability Team, NC DMH/DD/SAS, presented the proposed adoption of Provider Accreditation. The proposed rule satisfies requirements established in Session Law 2006-142 to assure that all policies established in Communication Bulletins published by DHHS on MH reform have supporting rules. There is a requirement that service providers of services identified in DMA Clinical Policy 8A and subsequent amendments to that policy be nationally accredited within three (3) years of enrollment as a service provider. This rule supports that requirement. This is a Secretary rule and presented for information and comment. Therefore, no action is required. Mr. Jarrard informed the Commission members of the rule title change during this presentation: Criteria for selection of agencies which accredit providers of mental health, developmental disabilities and substance abuse services.

**10A NCAC 27I .0102 & .0201 – Proposed Adoption of LME Accreditation**

Jim Jarrard presented the proposed adoption of LME Accreditation. The proposed rule satisfies requirements established in Session Law 2006–142 to assure that all policies established in Communication Bulletins published by DHHS on MH reform have supporting rules. Communication Bulletin #50 requires an LME’s system management functions to be accredited. This rule supports that requirement. The rule has been modified to include an effective date of January 1, 2010. This is a Secretary rule and presented for information and comment. Therefore, no action is required.

**10A NCAC 27G .7000 – Proposed Adoption of LME Response to Complaints**

Stuart Berde, Team Leader, Customer Services and Community Rights Team, NC DMH/DD/SAS, presented the proposed adoption of LME Response to Complaints. The proposed rule is necessary to provide a standardized system clarifying LME responsibilities to address complaints regarding the provision of public services. This is a Secretary rule and presented for information and comment. Therefore, no action is required. Mr. Berde also noted the change made to the rule on page 65 of the Commission mail out packet, line 65 of Rule 10A NCAC 27G. 7002 from 120 to 80 days. He also responded that language regarding language about the notice of appeal being given to the complainant and the provider can be inserted, in response to Mr. McElroy’s and Ms. DuPuy’s inquiries.

**10A NCAC 27G .7004 – Proposed Adoption of Appeals Regarding Utilization Review Decisions for Non-Medicaid Services**

Stuart Berde presented the proposed adoption of Appeals Regarding Utilization Review Decisions for Non-Medicaid Services. This rule is necessary to provide a standardized LME response system when clients or their legal guardians appeal utilization review decisions for Non-Medicaid services. This is a Secretary rule and presented for information and comment. Therefore, no action is required.

**Update Criminal Justice/Department of Corrections Rules:**

Connie Mele presented the update on Criminal Justice/Department of Corrections Rules and advised that group anticipates the rules will be presented at the October Rules Committee meeting.

**Overview of the Mercer Report:**

Ms. Wainwright presented a brief update on the Mercer Report and informed the Commission that the final report should be available either tomorrow or by Monday, May 19, 2008. She

further added that Mercer was selected because they were unique and qualified based upon staff expertise in mh/dd/sas and their financial stability.

**Public Comment:**

Mark Sullivan, Ex-Officio Member of the Rules Committee, stated that it would be a big mistake to adopt the proposed Smoking Ban Rule. Joe Donovan stated that it would be unrealistic to think the Smoking Ban will work. He listed clients being forced to leave or stay away from facilities and violating the non-smoking rules as possible outcomes of implementing this change. Louis G. Fisher stated that as far as the telephone triage goes, the sickest patients are usually out of touch with reality, and would be unable to call in to request help.

Dr. Scheyett stated that there are going to be twelve new people on the Commission in this coming year. She suggested that the current Commission members mentor a new appointed member and asked them to consider doing so.

**There being no further business, the meeting adjourned at 3:15pm.**